

Cynthia Ewers  
89 Honey Hill Road  
East Haddam, CT 06423

96 Hammond Court  
Colchester, CT 06415

**STATE OF CONNECTICUT  
BOARD OF EXAMINERS FOR NURSING**

State of Connecticut  
Department of Public Health

vs.

Cynthia Ewers, LPN  
Licensed Practical Nurse License No. 023429  
Respondent.

CASE PETITION NO. 961022-011-033

MEMORANDUM OF DECISION

**PROCEDURAL BACKGROUND**

The Board of Examiners for Nursing (hereinafter the "Board") was presented by the Department of Public Health (hereinafter the "Department") with a Statement of Charges and Motion for Summary Suspension dated November 5, 1996 (Department Exhibit 1-A). The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Cynthia Ewers (hereinafter the "Respondent") which would subject the Respondent's Licensed Practical Nurse license to disciplinary action pursuant to the General Statutes of Connecticut.

Based on the allegations in the Statement of Charges and accompanying affidavits and reports, the Board found that the continued nursing practice of the Respondent presented a clear and immediate danger to public health and safety. On November 20, 1996, the Board ordered, pursuant to its authority under §19a-17(c) of the General Statutes of Connecticut, that the Licensed Practical Nurse license of the Respondent be summarily suspended pending a final determination by the Board of the allegations contained in the Statement of Charges (Department Exhibit 1-A).

The Board issued a Notice of Hearing dated November 20, 1996, scheduling a hearing for December 4, 1996 (Department Exhibit 1-A). The Respondent was provided notice of the hearing and charges against her. Department Exhibit 1-A indicates that the Summary Suspension Order, Statement of Charges and the Notice of Hearing were served on the Respondent by Deputy Sheriff on November 29, 1996.

The hearing was continued at the Respondent's request (Department Exhibit 2) and was rescheduled. The hearing began on January 8, 1997, at the Department of Public Health, 410 Capitol Avenue, Hartford, Connecticut. Notice of Continuance of Formal Hearing was served on the Respondent by Deputy Sheriff on December 28, 1996.

The Respondent was not present during the hearing on January 8, 1997 and was not represented by counsel. (Hearing Transcript, January 8, 1997, p. 2) At the conclusion of the Department's case the Board continued the hearing to give the Respondent an opportunity to appear.

During the hearing on January 8, 1997, the Department orally amended the First Count Paragraph 2 of the Statement of Charges by changing "registered nurse" to "licensed practical nurse." (Hearing Transcript, January 8, 1997, p. 11)

The hearing was rescheduled and concluded on February 19, 1997. Notice of Continuance of Formal Hearing was delivered to the Respondent's address of record by certified mail on January 29, 1997. (Department Exhibit 2)

The Respondent was not present during the hearing on February 19, 1997 and was not represented by counsel. (Hearing Transcript, February 19, 1997, pp. 2-4)

Each member of the Board involved in this decision attests that he/she was present at the hearing or has reviewed the record, and that this decision is based entirely on the record, the law, and the Board's specialized professional knowledge in evaluating the evidence.

FACTS

Based on the testimony given and the exhibits offered into evidence, the Board makes the following Findings of Fact:

1. Cynthia Ewers, hereinafter referred to as the Respondent, was issued licensed practical nurse license Number 023429 on June 1, 1990. The Respondent was the holder of said license at all times referenced in the Statement of Charges. (Department Exhibit 1-B)
2. Pursuant to a Consent Order dated February 5, 1992 the licensed practical nurse of the Respondent was placed on probation for a period of three (3) years effective March 1, 1992. The probation was ordered due to the Respondent's diversion of controlled substances from Middlesex Memorial Hospital, Middletown, Connecticut during 1991. (Department Exhibit 1-B)
3. From on or about May 11, 1996 to on or about August 2, 1996, the Respondent was employed as a licensed practical nurse at Crestfield Rehabilitation Center, Manchester, Connecticut. (Department Exhibit 1-C6)
4. On a number of occasions from on or about June 1, 1996 to on or about August 2, 1996, while working as a licensed practical nurse at Crestfield Rehabilitation Center, the Respondent signed out doses of controlled substances on controlled substance disposition records indicating that the doses had been administered to patients. Corresponding entries on medication administration records which would indicate that the doses had been administered to patients do not exist and/or the patients have stated they had not received medications which the Respondent charted in the controlled substance disposition records. (Department Exhibit 1-C, 1-D)
5. The Respondent while on duty at Crestfield Rehabilitation Center exhibited behavior suggestive of abuse or excessive use of drugs. (Hearing Transcript, January 8, 1997, pp. 18-20)

### DISCUSSION AND CONCLUSIONS

In consideration of the above Findings of Fact, the following conclusions are rendered:

Cynthia Ewers held a valid Licensed Practical Nurse license in the State of Connecticut at all times referenced in the Statement of Charges.

The Notice of Hearing and Statement of Charges sufficiently provided legal notice as mandated by the General Statutes of Connecticut §4-177, §4-182 and §19a-17. The hearing was held in accordance with Chapters 54 and 368a of the General Statutes of Connecticut as well as §19-2a-1 through §19-2a-30 of the Regulations of Connecticut State Agencies.

The Notice of Hearing, Statement of Charges and the hearing process provided the Respondent with the opportunity to demonstrate compliance with all lawful requirements for the retention of her license as required by the General Statutes of Connecticut §4-182(c).

The Department bears the burden of proof by a preponderance of the evidence in this matter.

The FIRST COUNT PARAGRAPH 3 of the Statement of Charges, as amended, alleges that between approximately June 1996 and August 2, 1996, while working as a licensed practical nurse at Crestfield Rehabilitation Center, Manchester, Connecticut, the Respondent:

- “a. failed to completely, properly and/or accurately document medical or hospital records for nine patients; and/or,
- b. failed to administer to patients Roxilox (oxycodone), hydrocodone/apap 5/500, propoxyphene-N/apap 100/650, alprazolam, morphine injectable, and ambien, as prescribed.”

The Respondent was not present at the hearing to answer these charges, therefore the Board deems these charges admitted pursuant to §19-2a-18 of the Regulations of Connecticut State Agencies.

Based on its review of the evidence, the Board finds that the Respondent signed out doses of controlled substances on controlled substance disposition records indicating that the doses had been administered to

patients. However, corresponding medication administration records as well as information provided by patients prove that the doses of controlled substances signed out by the Respondent were not administered. The Board therefore concludes that the Respondent failed to administer medications to patients and that the controlled substance disposition records completed by the Respondent are inaccurate.

The General Statutes of Connecticut §20-99(b) prohibits conduct which fails to conform to the accepted standards of the nursing profession, which includes "... (2) illegal conduct, incompetence or negligence in performing usual nursing functions... (6) fraud or material deception in the course of professional services or activities...."

Based on its findings, the Board concludes that the Respondent's conduct as alleged in the First Count Paragraph 3 of the Statement of Charges, as amended, is proven and that said conduct constitutes violations of the General Statutes of Connecticut §20-99(b)(2) and (6). Therefore, the Respondent is subject to disciplinary action pursuant to §19a-17 of the General Statutes of Connecticut.

The SECOND COUNT PARAGRAPH 6 of the Statement of Charges alleges that between approximately June 1996 and August 1996, while working as a licensed practical nurse at Crestfield Rehabilitation Center, Manchester, Connecticut, the Respondent:

- "a. diverted Roxilox (oxycodone), hydrocodone/apap 5/500, propoxyphene-N/apap 100/650, alprazolam, morphine injectable, and ambien; and/or,
- b. abused or used Roxilox, hydrocodone/apap 5/500, propoxyphene-N/apap 100/650, alprazolam, morphine injection, and/or ambien."

The Respondent was not present at the hearing to answer these charges, therefore the Board deems these charges admitted pursuant to §19-2a-18 of the Regulations of Connecticut State Agencies.

The Board has concluded that the Respondent did not administer to patients, doses of controlled substances which she had signed out on controlled substance disposition records. The Board therefore concludes that the Respondent diverted controlled substances from Crestfield Rehabilitation Center.

Diversion of a controlled substance occurs when the controlled substance is signed out on a controlled substance disposition record but is not administered to a patient and is not accounted for, as proven by the lack of documentation on a medication administration record.

Based on its review of the evidence presented regarding the Respondent's behavior while on duty at Crestfield Rehabilitation Center, the Board concludes that the Respondent abused and/or used the controlled substances which she had diverted.

The General Statutes of Connecticut §20-99(b) prohibits conduct which fails to conform to the accepted standards of the nursing profession, which includes "... (2) illegal conduct, incompetence or negligence in performing usual nursing functions... (5) abuse or excessive use of drugs, including alcohol, narcotics or chemicals...."

Based on its findings, the Board concludes that the Respondent's conduct as alleged in the Second Count Paragraph 6 of the Statement of Charges is proven and that said conduct constitutes violations of the General Statutes of Connecticut §20-99(b)(2) and (5). Therefore, the Respondent is subject to disciplinary action pursuant to §19a-17 of the General Statutes of Connecticut.

In determining appropriate sanctions in this matter the Board may consider, in addition to the charges upon which there is a finding of guilt, any evidence presented during the hearing which is relevant to the Respondent's ability to practice nursing in accordance with the accepted standards of the nursing profession.

### **ORDER**

Pursuant to its authority under §19a-17 and §20-99 of the General Statutes of Connecticut, the Board of Examiners for Nursing hereby orders the following:

1. That for the First Count Paragraph 3 of the Statement of Charges, as amended, the Respondent's licensed practical nurse license, No. 023429, is revoked.

2. That for the Second Count Paragraph 6 of the Statement of Charges, the Respondent's licensed practical nurse license, No. 023429, is revoked.
3. Revocation shall be effective on the date this Memorandum of Decision is signed by the Board of Examiners for Nursing.

The Respondent, Cynthia Ewers, is hereby directed to immediately surrender Licensed Practical Nurse License No. 023429 to the Board of Examiners for Nursing at the following address:

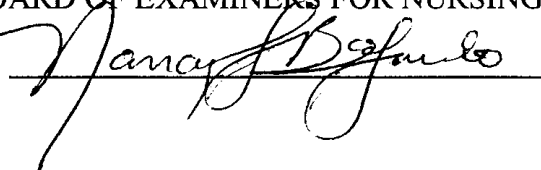
DEPARTMENT OF PUBLIC HEALTH  
BOARD OF EXAMINERS FOR NURSING  
410 Capitol Avenue, MS #13ADJ  
PO BOX 340308  
Hartford, CT 06134-0308

The Board of Examiners for Nursing hereby informs the Respondent, Cynthia Ewers, and the Department of Public Health of the State of Connecticut of this decision.

Dated at Hartford, Connecticut this 21st day of May 1997.

BOARD OF EXAMINERS FOR NURSING

By

A handwritten signature in cursive script, appearing to read "Nancy J. Beaulieu", is written over a horizontal line.